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The Landscape of the Legal Professions in Europe and the USA: Continuity and Change

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The Landscape of the Legal Professions in Europe and the USA: Continuity and Change. Edited by A. Uzelac and C.H. van Rhee. Cambridge, U.K.; Antwerp, Netherlands; Portland, Oregon: Intersentia, 2011. Pp. xxxiii, 277. ISBN978-1-78068-014-9. US\$90.00; £61.00; €64.00.

The Landscape of the Legal Professions in Europe and the USA: Continuity and Change, as part of the *Ius Commune Europaeum* series, continues to fulfill the mission of the series to present comparative legal analyses of the origin and development of legal systems in Europe and the United States. Edited by Professor Dr. Alan Uzelac of Croatia and Professor C.H. van Rhee of the Netherlands, this book is composed of fifteen scholarly articles written by legal academics from Europe and the United States.

As a whole, this book embraces three ongoing and pertinent issues in the current development of the European legal profession: the challenge of creating a unified legal profession in European Union, the conflicting interests of creating a competitive market of legal services against that of maintaining a monopoly of legal services through self-regulation, and the role and function of newly emerging legal professionals. Each article focuses on at least one of the above issues either from a macro perspective, such as *The Romanian Legal Profession*, or from a micro view, such as on the role of legal professions on introducing and developing of *fiducia cum creditore* in both Germany and the Netherlands.

A system is "a complex whole" that "clearly shows the interrelations of the parts to each other and to the whole itself."¹⁷ A legal system is composed of legal institutions, legal professionals, a legal culture, and social norms. These elements are not only bounded by a legal system, but also drive the development of a legal system. This book starts with an article on American legal profession, *The Balkanized American Legal Profession*, by R.L. Marcus, who explores the historical origins and causes of a unique feature of the American legal profession, balkanization. The author argues that the decentralized governmental structure, the dispersed common law making regime, and the independent self-regulation of the legal profession all contribute to the balkanization of American legal profession as a whole. Although the national orientation of uniform legal education, the rise of national and international law firms, and the advance of technology all appear to contribute to the development of a more uniform legal profession, the author states that it is unlikely that the balkanized nature of the U.S. legal profession will disappear in the near future. However, American experience can shed light on developing uniform European Union legal profession.

¹⁷ Lawrence Lipsitz (ed.), *Introduction to the Systems Approach* 48 (1973)

Self-regulation of the legal profession is designed to remedy market failures caused by the information asymmetry and negative externalities, so as to promote public interest to access to law and justice.¹⁸ On the other hand, certain restrictions to competition in the legal services industry may be unnecessary or hinder the public's right to choose services freely. Two articles in this book explore the ongoing Italian legal reform that intends to solve or at least soften the tension between competition and regulation. The Bersani Decree Reforms Competition Act of 2006 ("Bersani Decree") in Italy¹⁹ promotes the liberalization of many service markets, including the legal services sector, consistent with the EU principle of competition and free movement. As a result, the traditional minimum mandatory tariff was abolished, whereas the traditional maximum mandatory tariff requirement remains intact. Advertising restrictions were loosened and now lawyers can advertise their services and activities with objective information. G. Finocchiaro in his article, after analyzing two sets of empirical data (average incomes of lawyers in 2008 and the number of civil trials before Italian courts in 2000-2007), refutes the claims that the Bersani Decree would fuel the civil litigation and affect the quality of legal services. Instead of focusing only on the Bersani Decree and its impact, E. Silvestri puts Italy in the EU framework and delineates EU's competition policy in professional services sectors by examining judicial decisions of European Court of Justice and reports of European Commission before analyzing Italian national laws and their impact on Italian legal reform in general.

Unlike the United States, there are many different types of legal professionals in European continental countries. The book contains a few articles covering major types of traditional legal professionals, such as judge, Latin notary, advocate, and state attorney. The Latin notary is probably one of the classic legal professions that functions significantly differently from the notary public in common law countries. C.M. Cappon exams the origin and evolution of the Latin notary profession in the Netherlands in contrast to the development of notary public in England, and claims that the Latin notary is indispensable to the civil law tradition, which originates from Roman law procedure based on written evidence. C. Koller, taking a different angle, explores the impact of European Commission's principle of freedom of establishment on the development of the Latin notary as a legal profession,

¹⁸ OECD, *Competitive Restrictions in Legal Professions, Competition Law and Policy Roundtable* (2007), *available at* <http://www.oecd.org/regreform/liberalisationandcompetitioninterventioninregulatedsectors/40080343.pdf>

¹⁹ Legge 4 Agosto 2006, n.248 (It.), *available at* http://www.lavoro.gov.it/NR/rdonlyres/FDB03F7C-E431-4DD2-AF81-E7131F26A0C2/0/20060804_L_248.pdf (last accessed on Dec. 20, 2012)

after providing an overview of three kinds of notaries (state notary, Latin notary and common law notary). Legal professions in continental European countries are inter-related. J.T. Johnsen, through comparing two models of legal aid delivery, discusses the impact of private legal professions on the legal aid in Finland and Norway.

Overall, all articles in the book are thoroughly researched, documented, and presented with in-depth scholarly analyses. Although it is entitled *The Landscape of the Legal Professions in the Europe and the USA*, the European focus is apparent and dominant. On the other hand, comparative methodology is employed in most of the articles, either through a comparison of Europe nations and the United States, or through comparisons and contrasts among European countries. It will be of invaluable assistance to scholars interested in legal professions and legal system specifically and foreign and comparative law in general. It will be a great addition to academic law libraries collecting materials on legal professions and law practices.

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